

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM GREGORY SUMMERS,	§
	§ No. 3, 2011
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware, in and
	§ for Kent County
STATE OF DELAWARE,	§ C.A. No. 10M-11-011
	§ Cr. ID No. 9704012286
Respondent Below-	§
Appellee.	§

Submitted: June 10, 2011

Decided: July 27, 2011

Before **STEELE**, Chief Justice, **BERGER** and **JACOBS**, Justices.

**ORDER**

This 27<sup>th</sup> day of July 2010, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The petitioner-appellant, William Gregory Summers, filed an appeal from the Superior Court's November 19, 2010 order summarily dismissing his second petition for a writ of habeas corpus. We find no merit to the appeal. Accordingly, we affirm.

(2) The record before us reflects that, in 2009, Summers was found guilty by a Superior Court jury of Robbery in the First Degree, Assault in the Third Degree and Theft. Summers was sentenced as an habitual offender to life in prison on the robbery conviction. He also was sentenced to 1 year at

Level V, suspended for 1 year at Level III on the assault conviction and to 1 year at Level V, suspended for 1 year at Level III on the theft conviction. On direct appeal, this Court affirmed Summers' convictions of robbery and assault, but vacated the conviction of theft.<sup>1</sup>

(3) Since that time, Summers has filed numerous postconviction motions and petitions for extraordinary writs. In this latest appeal from the Superior Court's dismissal of his second petition for a writ of habeas corpus, Summers claims that one of the convictions supporting his status as an habitual offender should have been adjudicated in Family Court rather than Superior Court. For that reason, he argues, the conviction should be reversed, his status as an habitual offender revoked and his habitual offender sentence vacated.

(4) In Delaware, the writ of habeas corpus provides relief on a very limited basis.<sup>2</sup> Habeas corpus only provides "an opportunity for one illegally confined or incarcerated to obtain judicial review of the jurisdiction of the court ordering the commitment."<sup>3</sup> Habeas corpus relief is not available to "persons committed or detained on a charge of treason or felony,

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<sup>1</sup> *Summers v. State*, 2000 WL 1508771 (Del. 2000).

<sup>2</sup> *Hall v. Carr*, 692 A.2d 888, 891 (Del. 1997).

<sup>3</sup> *Id.*

the species whereof is plainly and fully set forth in the commitment,” as set forth in Del. Code Ann. tit. 10, §6902(l).<sup>4</sup>

(5) In this case, Summers bases his petition on his belief that the Superior Court did not have authority to sentence him on one of the convictions supporting his habitual offender status and that, therefore, his sentence as an habitual offender is invalid. However, because there is no evidence that the commitment underlying his current incarceration was defective on its face, Summers is not entitled to habeas corpus relief. As such, the Superior Court properly dismissed Summers’ petition for a writ of habeas corpus.<sup>5</sup>

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>4</sup> Id.

<sup>5</sup> We note that this is Summers’ second appeal from the Superior Court’s dismissal of a petition for a writ of habeas corpus on the same ground. The record also reflects that Summers has unsuccessfully raised the same issue in this Court on several occasions. We admonish Summers that, should this pattern continue, the Court will consider prohibiting the docketing of any filings containing similar arguments without the prior permission of a Justice of this Court.